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August 15, 2012

VIA FACSIMILE TRANSMITTAL (914.390.4278)

The Honorable Cathy Seibel
 United States District Court, S.D.N.Y.
 300 Quarropas Street
 White Plains, New York 10601

Re: *Bais Yaakov of Spring Valley v. Alloy, Inc. and Chanel One, LLC*
 12-CV-00581 (CS) (GAY)

Your Honor:

This responds to Plaintiff's August 13, 2012 letter informing this Court of *Jackson's Five Star Catering, Inc. v. Beason*, 2012 WL 3205526 (E.D. Mich. July 26, 2012).

This Michigan district court decision rejected application of a Michigan prohibition on class actions seeking statutory damages, concluding that such state law limitations on TCPA claims are no longer applicable after *Mims v. Arrow Fin. Services, LLC*, 132 S. Ct. 740 (2012). But like every other post-*Mims* district court decision that Plaintiff has brought to this Court's attention, this decision is not from within the Second Circuit, and contains only minimal discussion of *Mims*. None of these district court decisions, *Beason* included, have taken the time to closely analyze *Mims*' narrow holding, let alone consider *Mims* in the context of the well-reasoned Second Circuit Court of Appeals decisions interpreting the TCPA's private right of action provision.

These district court decisions are neither binding nor persuasive, and should be disregarded by this Court.

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Sincerely,

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By:

Blaine C. Kimrey

BCK

cc: Aytan Bellin, Esq. (counsel for Plaintiff)
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NAME:	FAX No.:	PHONE No.:
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FROM: Blaine C. Kimrey**PHONE:** 312.920.3302**RE:** *Bais Yaakov of Spring Valley v. Alloy, Inc. and Channel One, LLC*
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